

BOBBY JINDAL
GOVERNOR



PEGGY M. HATCH
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

August 22, 2011

CERTIFIED MAIL (7004 2510 0005 5763 0768)
RETURN RECEIPT REQUESTED

TIN INC.
c/o Corporation Service Company
Agent for Service of Process
320 Somerulos St.
Baton Rouge, LA 70802-6129

RE: **CONSOLIDATED COMPLIANCE ORDER
& NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. WE-CN-11-01062
AGENCY INTEREST NO. 38936**

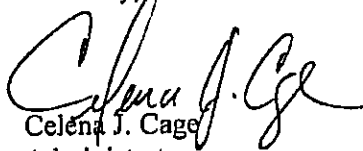
Dear Sir:

Pursuant to the Louisiana Environmental Quality Act (La. R.S. 30:2001, et seq.), the attached **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is hereby served on **TIN INC. (RESPONDENT)** for the violation(s) described therein.

Compliance is expected within the maximum time period established by each part of the **COMPLIANCE ORDER**. The violation(s) cited in the **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** could result in the issuance of a civil penalty or other appropriate legal actions.

Any questions concerning this action should be directed to Celena J. Cage at (225) 219-3710.

Sincerely,


Celena J. Cage
Administrator
Enforcement Division

CJC/JSK/WRS/cjc
Alt ID No. LA0007901
Attachment

c: Jay Wilson, Vice President-Environmental, Health and Safety
Temple-Inland
401 Avenue U
Bogalusa, LA 70427

Alban Bush, Environmental Manager
Temple-Inland
401 Avenue U
Bogalusa, LA 70427

Richard Harrell
Mississippi Department of Environmental Quality
Office of Pollution Control-Environmental Permitting
P. O. Box 2261
Jackson, MS 39225

**STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE**

IN THE MATTER OF

**TIN INC.
WASHINGTON PARISH
ALT ID NO. LA0007901**

**PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT,
La. R.S. 30:2001, ET SEQ.**

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*	ENFORCEMENT TRACKING NO.
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*	WE-CN-11-01062
*	
*	AGENCY INTEREST NO.
*	
*	38936
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**CONSOLIDATED
COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY**

The following **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is issued to **TIN INC. (RESPONDENT)** by the Louisiana Department of Environmental Quality (the Department), under the authority granted by the Louisiana Environmental Quality Act (the Act), La. R.S. 30:2001, et seq., and particularly by La. R.S. 30:2025(C), 30:2050.2 and 30:2050.3(B).

FINDINGS OF FACT

I.

The Respondent owns and/or operates an unbleached kraft paper mill and container plant known to the Department as the Bogalusa Paperboard Mill, which is located at 401 Avenue U in Bogalusa, Washington Parish, Louisiana. The Respondent was issued Louisiana Pollutant Discharge Elimination System (LPDES) Permit LA0007901 on June 13, 2006, with an effective date of July 1, 2006, and an expiration date of June 30, 2011. On or about September 2, 2008, the Respondent submitted a request for modifications to LPDES Permit LA0007901, which was received by the Department on or about September 8, 2008. On or about January 29, 2010, LPDES Permit LA0007901 was modified by the Department with an effective date of March 1, 2010, and an expiration date of June 30, 2011. On or

about December 14, 2010, the Respondent requested an extension of the deadline to submit a permit renewal application for LPDES Permit LA0007901 from January 1, 2011, until March 1, 2011. The request for extension was granted by the Department on or about March 1, 2011, and a permit renewal application was submitted by the Respondent on or about February 28, 2011. LPDES Permit LA0007901 has been administratively continued by the Department. Under the terms and conditions of LPDES permit LA0007901, the Respondent is authorized to continuously discharge treated combined process wastewater from the kraft pulp and paper mill and the linerboard mill; boiler and cooling tower blowdown; sludge dewatering liquid; lime kiln scrubber and boiler scrubber wastewater; miscellaneous wastewaters (comprised of wastewater from the shops and offices); sanitary wastewater; contaminated groundwater from a groundwater remediation project, and process area stormwater into the Pearl River, waters of the state.

II.

On or about August 13, 2011, at approximately 10:00 a.m., the Department received a media inquiry into a fish kill in the Pearl River. The department sent inspectors to the Pearl River and began investigating the fish kill immediately upon receiving the call. Dead fish were observed and water quality parameters were monitored. Photographic documentation of the fish kill was obtained; fish identification and counts were initiated.

III.

On or about August 13, 2011, at approximately 5:37 p.m., the Respondent called the Department's Single Point of Contact (SPOC) number and left a message reporting a permit exceedance and fish kill. On or about August 13, 2011, at approximately 6:41 p.m., the Respondent made the required notification to the Department of Public Safety (DPS-Louisiana State Police) 24-Hour Emergency Hazardous Materials Hotline. As a result of the report/notification, the Department initiated an investigation into the reported discharge incident on August 14, 2011. Based on observations made during the investigation, records reviewed and conversations held with a representative of the Respondent, the Respondent was verbally ordered by Secretary Hatch to cease the discharge from its facility into waters of the state on August 14, 2011. The Respondent was further ordered to obtain authorization from the Department prior to re-starting and operating the facility. On or about August 14, 2011, the Respondent provided the Department with a list of chronological events associated with upset conditions of the multiple effect evaporator at its Bogalusa Mill. According to the list, the Respondent did cease discharging from its facility into waters of the state on August 14, 2011.

IV.

On or about August 17, 2011, the Respondent submitted a consolidated five (5) and seven (7) day written notification report to the Department as required by LPDES Permit LA0007901 (Part III, Section D.6.d and e) and LAC 33:I.3925.A. This report referred to the August 14, 2011, chronological list of events for details on the circumstances (unauthorized discharge description and root cause) and events leading to the unauthorized discharge. In the written report, the Respondent stated that its unauthorized discharge, which was preventable, resulted in an apparent off-site fish kill. Additionally, the Respondent reported that no other responsible parties have been identified.

V.

On or about August 14, 2011, through August 20, 2011, the Department conducted inspections and file reviews in response to the Respondent's unauthorized discharge. While the Department's investigation is not yet complete, the inspections and file reviews have thus far revealed that on or about August 9, 2011, the Respondent experienced an upset with the multiple effect evaporator at the facility which led to the introduction of "black liquor" into the wastewater treatment system. This substance was then discharged into the Pearl River. While the Respondent has not provided the Department with the exact date that the discharge of effluent containing black liquor commenced from the facility into waters of the state, the Respondent has reported that the discharge ceased on August 14, 2011. Although the LPDES permit application lists black liquor as a chemical maintained at the Respondent's facility, LPDES permit LA0007901 does not authorize the Respondent to discharge black liquor into waters of the state. Each discharge of a pollutant not authorized by LPDES Permit LA0007901 is a violation of La. R.S. 30:2076(A)(3) and LAC 33:IX.501.C.

VI.

On or about August 14, 2011, through August 20, 2011, the Department conducted inspections and file reviews in response to the Respondent's unauthorized discharge. While the Department's investigation is not yet complete, the inspections and file reviews have thus far revealed that on or about August 9, 2011, the Respondent experienced an upset with the multiple effect evaporator at the facility which led to black liquor being introduced into the wastewater treatment system, which was then discharged into the Pearl River. According to the Respondent's consolidated five (5) and seven (7) day written notification report, a Biological Oxygen Demand (BOD₅) sample was collected on August 12, 2011. Estimated sample results revealed a BOD₅ concentration of 116,000 lbs/day, which exceeded the

permit limitation of 35,610 lbs/day. Each exceedance of the permit limitation is a violation of LPDES Permit LA0007901 (Part I, Page 6 of 7 and Part III, Section A.2), La. R.S. 30:2076 (A) (3), and LAC 33:IX.501.A.

VII.

On or about August 14, 2011, through August 20, 2011, the Department conducted inspections and file reviews in response to the Respondent's unauthorized discharge. While the Department's investigation is not yet complete, the inspections and file reviews have thus far revealed that foam in greater than trace amounts was observed at or around Outfall 001, as well as in various areas of the receiving stream. The discharge of foam greater than trace amounts is a violation of LPDES Permit LA0007901 (Part I, Page 6 of 7 and Part III, Section A.2), La. R.S. 30:2076 (A) (3), and LAC 33:IX.501.A.

VIII.

On or about August 14, 2011, through August 20, 2011, the Department conducted inspections and file reviews in response to the Respondent's unauthorized discharge. While the Department's investigation is not yet complete, the inspections and file reviews have thus far revealed severe adverse impact to aquatic biota occurred as a result of the Respondent's unauthorized discharge into the Pearl River, and tributaries thereof. The Respondent further reported this impact to aquatic biota in its consolidated written report. The destruction of aquatic biota is a violation of LPDES permit LA0007901 (Part III.A.2), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, LAC 33:IX.1113.B.1.d, and LAC 33:IX.1113.B.5.

IX.

On or about August 14, 2011, through August 20, 2011, the Department conducted inspections and file reviews in response to the Respondent's unauthorized discharge. While the Department's investigation is not yet complete, the inspections and file reviews have thus far revealed that the Respondent's unauthorized discharge of black liquor and/or inadequately treated wastewater temporarily prevented the receiving stream from meeting its designated use(s) as established in Table 3 - Numerical Criteria and Designated Uses of LAC 33:IX.1123. Specifically, the Designated Uses established for Sub-segment 090101 of the Pearl River are Primary Contact Recreation, Secondary Contact Recreation and Propagation of Fish and Wildlife. Observations made by the Department during the investigations revealed that due to the significant amount of accumulated dead fish in the Pearl River and tributaries thereof, these waters of the state could not meet their designated uses. The Respondent's discharges

which have resulted in waters of the state not meeting their designated uses are a violation of LAC 33:IX.1123, LAC 33:IX.501.A, and La. R.S. 30:2076 (A)(3).

X.

On or about August 14, 2011, through August 20, 2011, the Department conducted inspections and file reviews in response to the Respondent's unauthorized discharge. While the Department's investigation is not yet complete, the inspections and file reviews have thus far revealed that the Respondent failed to notify the Department in a timely manner of an emergency condition. Specifically, and according to the August 14, 2011, chronological list of events, the Respondent retrieved a telephone message on August 12, 2011, informing the company of dead fish at or around Pool's [sic] Bluff landing. Information provided in the chronology further revealed that the Respondent was aware of the emergency condition as early as 10:30 a.m. on August 13, 2011 and that the company had an upset condition in the facility on August 9, 2011. The Respondent provided verbal notification of this emergency event to the Department on August 13, 2011, at approximately 5:37 p.m., and made notification to the DPS-Louisiana State Police 24-Hour Emergency Hazardous Materials Hotline of the emergency event on August 13, 2011, at approximately 6:41 p.m. The Respondent's failure to provide verbal notification within one (1) hour of becoming aware of the emergency condition(s) associated with its unauthorized discharge is a violation of LPDES permit LA0007901 (Part III, Section D.6.a), La. R.S. 30:2076 (A)(3), LAC 33:IX.501.A, and LAC 33:I.3915.A.

XI.

LPDES Permit LA0007901, which was modified by the Department on or about January 29, 2010, and became effective on or about March 1, 2010, contained two (2) effluent limitations and monitoring requirements phases applicable to the Respondent's discharge point, Outfall 001. The Respondent was required to comply with the Phase I effluent limitations and monitoring requirements from the effective date of the modified permit through the shutdown of the Chemical Plant, cessation of the discharge of Organic Chemicals, Plastics, and Synthetic Fibers (OCPSF) wastewater, and completion of the OCPSF monitoring event. Upon completion of Phase I and lasting through the expiration date of LPDES Permit LA0007901, the Respondent is required to comply with the Phase II effluent limitations and monitoring requirements.

In a February 7, 2011, letter to the Department, the Respondent submitted notification that "the Chemical Plant ceased manufacturing operation in September 2010 and that the plant dismantling began. The Chemical Plant now has been fully dismantled and the manufacturing-related equipment has been

moved off site as scheduled." The February 7, 2011, letter further states that on or about January 21, 2011, Temple-Inland personnel confirmed that all equipment, product, materials and wastewater streams associated with the chemical manufacturing process had been removed from the former Gaylord Chemicals, LLC plant, and that "there is no longer any actual, or potential for, discharge of OCPSF-related wastewater to the Temple-Inland wastewater collection and treatment system or through Outfall 001."

LPDES Permit LA0007901 (Part II, Section I) required the Respondent to conduct, within sixty (60) days of shutting down the Chemical Plant, an OCPSF monitoring event to demonstrate compliance with the OCPSF mass limitations under Phase I of the permit. In a June 24, 2011, letter to the Department, the Respondent reported that the Phase I monitoring was conducted from April 2011 through June 2011 and that compliance was demonstrated with the OCPSF mass limitations under Phase I of LPDES Permit LA0007901 during the monitoring event. The Respondent further reported that the Phase I requirements in LPDES Permit LA0007901 was concluded and that the June 2011 Discharge Monitoring Reports (DMRs) will reflect the Phase II permit limitations.

On or about August 14, 2011, through August 20, 2011, the Department conducted inspections and file reviews in response to the Respondent's unauthorized discharge. While the Department's investigation is not yet complete, the inspections and file reviews have thus far revealed that Phenol continues to exist in Outfall 001 at the Respondent's facility. Specifically, analytical results of a sample collected by the Department on August 14, 2011, from the Respondent's wet well at Outfall 001 detected Phenol at a concentration of 11 µg/L. Based on the amount of flow that was discharged from the Respondent's facility through Outfall 001 from August 10, 2011, through August 13, 2011, the Department has determined that Phenol was discharged. Phase I of LPDES permit LA0007901 contained a Phenol limitation of 0.41 lbs/day. However, as a result of the Respondent providing notification that compliance with Phase I was demonstrated during the monitoring event and the commencement of compliance with Phase II of LPDES Permit LA0007901 beginning June 2011, the Respondent is no longer authorized to discharge Phenol into waters of the state. Each discharge of a pollutant not authorized by LPDES Permit LA0007901 is a violation of La. R.S. 30:2076(A)(3) and LAC 33:IX.501.C.

COMPLIANCE ORDER

Based on the foregoing, the Respondent is hereby ordered:

I.

To immediately take, upon receipt of this **COMPLIANCE ORDER**, any and all steps necessary to meet and maintain compliance with the requirements contained in the Water Quality Regulations and in LPDES Permit LA0007901 including, but not limited to, ceasing the discharge of unauthorized pollutants, achieving and maintaining compliance with the permit effluent limitations, implementing measures that will prevent destruction of aquatic biota, implementing measures at the facility that will result in waters of the state meeting their designated uses, implementing measures at the facility that will result in foam no greater than trace amounts being discharged into waters of the state, and submitting required notifications to the Department within a timely manner. There shall be no discharge into waters of the state without approval from the Department.

II.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, the following records and/or documentation:

- A. All records of visual inspections performed at Outfall 001 and the receiving stream(s) from August 12, 2011, through the effective date of this **COMPLIANCE ORDER**.
- B. All results and test procedures of predictive tests that were conducted from August 12, 2011, through the effective date of this **COMPLIANCE ORDER** to demonstrate compliance with LPDES Permit LA0007901 and the Water Quality Regulations.
- C. Standard Operating Procedures (SOPs) for responding to process upsets at the facility in place at the time of the incident. The SOPs shall address, but not be limited to, measures or methods the Respondent performs to ensure black liquor is not introduced into the sewers and/or wastewater treatment system at its facility.
- D. Records or documentation of similar upset conditions that resulted in black liquor entering into the sewer and/or wastewater treatment system within the previous three (3) years. SOPs for providing notification(s) to the Department and other applicable regulatory agencies of unauthorized discharges which cause an emergency condition that were in place at the time of the incident.
- E. A plan which shall include long term operation, maintenance and process changes to ensure repeat or similar incidents do not occur at this facility. This plan must be approved by the department prior to start-up if mill production operations.

III.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report describing the procedures used to collect dead fish from the Pearl River and tributaries thereof. This written report shall also contain the identification and quantity of dead fish collected, transported and disposed of as a result of the unauthorized discharge.

IV.

The Respondent shall submit, within fifteen (15) days of receipt of this Order, a plan for the resumption of mill production operations. The plan shall present a staged production increase, with compliance with effluent limitations confirmed and approved by the Department prior to proceeding to increasing production to the next stage.

V.

The Respondent shall submit, within thirty (30) days of receipt of this order, a plan for returning the Aerated Stabilization Basin (ASB) to optimal operating conditions. The plan shall address, at a minimum, channeling in the system, repair of damaged baffles, and a short- and long-term solids management plan.

VI.

To submit to the Enforcement Division, within thirty (30) days after receipt of this **COMPLIANCE ORDER**, a written report that includes a detailed description of the circumstances surrounding the cited violation(s) and actions taken or to be taken to achieve compliance with the Order. Portion of this **COMPLIANCE ORDER**. This report and all other reports or information required to be submitted to the Enforcement Division by this **COMPLIANCE ORDER** shall be submitted to:

Office of Environmental Compliance
Post Office Box 4312
Baton Rouge, Louisiana 70821-4312
Attn: Celena J. Cage
Re: Enforcement Tracking No. WE-CN-11-01062
Agency Interest No. 38936

THE RESPONDENT SHALL FURTHER BE ON NOTICE THAT:

I.

The Respondent has a right to an adjudicatory hearing on a disputed issue of material fact or of law arising from this **COMPLIANCE ORDER**. This right may be exercised by filing a written request with the Secretary no later than thirty (30) days after receipt of this **COMPLIANCE ORDER**.

II.

The request for an adjudicatory hearing shall specify the provisions of the **COMPLIANCE ORDER** on which the hearing is requested and shall briefly describe the basis for the request. This request should reference the Enforcement Tracking Number and Agency Interest Number, which are located in the upper right-hand corner of the first page of this document and should be directed to the following:

Department of Environmental Quality
Office of the Secretary
Post Office Box 4302
Baton Rouge, Louisiana 70821-4302
Attn: **Hearings Clerk, Legal Division**
Re: **Enforcement Tracking No. WE-CN-11-01062**
Agency Interest No. 38936

III.

Upon the Respondent's timely filing a request for a hearing, a hearing on the disputed issue of material fact or of law regarding this **COMPLIANCE ORDER** may be scheduled by the Secretary of the Department. The hearing shall be governed by the Act, the Administrative Procedure Act (La. R.S. 49:950, et seq.), and the Department's Rules of Procedure. The Department may amend or supplement this **COMPLIANCE ORDER** prior to the hearing, after providing sufficient notice and an opportunity for the preparation of a defense for the hearing.

IV.

This **COMPLIANCE ORDER** shall become a final enforcement action unless the request for hearing is timely filed. Failure to timely request a hearing constitutes a waiver of the Respondent's right to a hearing on a disputed issue of material fact or of law under Section 2050.4 of the Act for the violation(s) described herein.

V.

The Respondent's failure to request a hearing or to file an appeal or the Respondent's withdrawal of a request for hearing on this **COMPLIANCE ORDER** shall not preclude the Respondent from contesting the findings of facts in any subsequent penalty action addressing the same violation(s), although the Respondent is estopped from objecting to this **COMPLIANCE ORDER** becoming a permanent part of its compliance history.

VI.

Civil penalties of not more than thirty-two thousand five hundred dollars (\$32,500) may be assessed for each day of violation. For violations that are done intentionally, willfully, and knowingly, or results in a discharge or disposal which causes irreparable or severe damage to the environment or if the substance discharged is one which endangers human life or health, an additional penalty of not more than one million dollars (\$1,000,000) may be assessed for each day of violation. The Respondent's failure or refusal to comply with this **COMPLIANCE ORDER** and the provisions herein will subject the Respondent to possible enforcement procedures under La. R.S. 30:2025, which could result in the assessment of a civil penalty in an amount of not more than fifty thousand dollars (\$50,000) for each day of continued violation or noncompliance.

VII.

For each violation described herein, the Department reserves the right to seek civil penalties in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties.

NOTICE OF POTENTIAL PENALTY

I.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

II.

Prior to the issuance of additional appropriate enforcement action(s), you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Celena J. Cage at (225) 219-3710 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

III.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violation(s) to the above named contact person within ten (10) days of receipt of this **NOTICE OF**

POTENTIAL PENALTY. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify that statement.

IV.

This **CONSOLIDATED COMPLIANCE ORDER & NOTICE OF POTENTIAL PENALTY** is effective upon receipt.

Baton Rouge, Louisiana, this 22 day of August, 2011.



Cheryl Sonnier Nolan
Assistant Secretary
Office of Environmental Compliance

Copies of a request for a hearing and/or related correspondence should be sent to:

Louisiana Department of Environmental Quality
Office of Environmental Compliance
Enforcement Division
P.O. Box 4312
Baton Rouge, LA 70821-4312
Attention: Celena J. Cage